

ASSISTANT ATTORNEY GENERAL'S REPORT

August 29, 2023

1. *Gibson, et al. v. Frederick County*, No. 23-1369 (4th Cir.) On July 5, 2022, Lois Ann Gibson and plaintiff-organizations filed suit against Maryland entities seeking injunctive relief. The complaint alleges that 22 jurisdictions in Maryland engaged in a RICO conspiracy with a Chicago non-profit organization to fund election fraud. The suit seeks a preliminary injunction enjoining the destruction of records of the 2020 Presidential Election. Under federal law, the records of the 2020 election were to be retained until September 3, 2022.

On December 16, 2022, the district court granted motions to dismiss as to all defendants and closed the case.

On January 13, 2023, plaintiffs filed a motion to amend or alter the judgment of dismissal under Federal Rule 59(e). The district court denied the motion to amend on March 29, 2023. The plaintiffs thereafter noted an appeal to the Fourth Circuit on April 1, 2023.

After multiple motions to postpone, the Gibson plaintiffs filed their appellants' brief on July 31, 2023. OAG is currently preparing a brief on behalf of all appellees in the appeal. Appellees' brief will be filed August 30, 2023.

2. *Johnson v. Hogan*, 8:22-CV-02250-TDC (D. Md.) On September 7, 2022, Thomas P. Johnson filed a complaint challenging the constitutionality of Election Law § 5-706. Mr. Johnson ran during the 2022 Gubernatorial Primary for a seat on the circuit court bench in Montgomery County. He lost that race. Mr. Johnson then sought to file a certificate of candidacy as a write-in candidate for that same office for the general election but was informed by SBE staff that he was ineligible to run pursuant to Election Law § 5-607(b)(2). The law prohibits anyone who has lost a primary election from running in the following general election as a write-in candidate.

The complaint alleges that § 5-706 unconstitutionally prevents Mr. Johnson from campaigning as a write-in candidate. It seeks injunctive relief allowing Mr. Johnson to file a certificate of candidacy as a write-in candidate.

The Office of the Attorney General filed a motion opposing injunctive relief on behalf of Governor Hogan, the sole named defendant, on September 21, 2022. Mr. Johnson filed a response to the OAG opposition on September 23, 2022. The court conducted a

Announcements & Important Meetings

Welcome & Farewell

In early September, Shafiq Satterfield will leave SBE to become the IT Director at the Prince George's County Board of Elections. Shafiq joined SBE in 2013 as a regional manager and has served as the lead regional manager and now the Director of IT Project Management and the project manager for the new electronic pollbook solution. In every role, Shafiq has demonstrated his ability to lead and his strong character, communication and project management skills - all with a smile on his face and kind words. While we are pleased that Shafiq will continue to be in our elections community, his departure from SBE is significant and will be felt by all. We wish Shafiq all the best in his new position at the Prince George's County Board of Elections.

Diane Zagorski is leaving SBE on September 5 to return back to Howard County as the County Legislative Auditor. She was a great asset for the Candidacy and Campaign Division. She was the point person on the public financing audits and worked closely with the Director on enforcement matters. We wish her the best in her new position at Howard County.

On October 1, 2023, Donna Duncan retires after more than 45 years of service to the elections community and the voters of Maryland. It is impossible to describe all that Donna has done and accomplished during her time at SBE, but I'd like to try. Donna supported implementing numerous election systems and election administration initiatives, shared her expertise in response to many, many lawsuits and redistricting efforts, trained new staff, answered questions from thousands of voters (many of them unhappy at the beginning of the call but satisfied by the end of the conversation), and has the wisdom and knowledge to identify potential issues long before they happen. Donna dedicated her entire career (and countless hours) serving Maryland's voters and election officials, and for that, we are more grateful than we can say. We are equally grateful for her kind words, support, ability to stay calm in tense times, and friendship and wish her all the best in her retirement.

On August 23, 2023, Nikki Charlson left SBE to become the Deputy Administrator of Central Operations for the MVA. Nikki began her career at SBE in 2003 and has served as Deputy Administrator since 2013. The contribution that Nikki has made to SBE and to elections in Maryland are beyond measure. She has implemented a HAVA-complaint voting system and voter registration system, increased accessibility for individuals with disabilities and overseen the development of an online voter registration and ballot delivery system (her admitted favorite project). Nikki is a true leader: the first to offer to help and the last person to stop working for the day. However, most know her as the person who has provided guidance and answers to countless questions that seem to have no answer. If any SBE or LBE employee needs guidance through a seemingly impossible situation, Nikki was the person they call. Her knowledge, paired with her ability to come up with a solution to virtually any challenging question, are oftentimes beyond measure. We wish her the best of luck in her new position, although we all know that she does not need it.

On September 1, 2023, Linda Lamone will retire as Administrator of Elections for the State of Maryland. Linda's history and contributions to SBE is a long and prolific one. Following a Commission's review of outdated election laws and procedures during the infamous 1994 election, the Governor appointed State Administrator Linda Lamone in 1997 to implement a modern election process with the maximum use of technology. Linda served as an Assistant Attorney General representing the State and the Board of Elections previously and with that strong background, began the task asked of her by the Governor to develop Statewide, uniform election systems for use by all twenty-four local election offices. Soon, election uniformity became the national focus, and Congress often sought Linda's input on

federal election legislation, leading to the passage of the 2001 Help America Vote Act (HAVA.) Linda retires as Maryland's Chief Election Official after serving as a previous President of the National Association of State Election Directors (NASED) and the recent recipient of the organization's Distinguished Service Award. Ms. Lamone also served on the US Election Commission's Advisory Board and Technical Development of Voting System Guidelines. Linda is taking home a treasure trove of other service recognitions and awards from various organizations, along with several framed pictures as the star of news satire. Ms. Lamone with Ms. Charlson, fellow SBE team members, local election officials and countless poll worker heroes have provided secure elections during a variety of issues and emergencies including ice and super storms and the latest pandemic. Maryland voters have been well served these past 25+ years.

Tyler Carr joined SBE on August 8, 2023, as the Director of Election Policy Projects, where he will work with the policy division to manage data-related projects at SBE. Tyler comes to SBE from the Maryland State Education Association, where he served as Managing Director for Data and Membership Operations. He is eager and excited to assist both Divisions and is currently reviewing the polling place plan for the 2024 election.

Summer Conference of NASED

July 25-27 the NASED held their summer conference in Charleston, SC. The conference focused on Disaster Preparation, Tabletop Exercises, training, serving Military and Overseas voters and Pre-Election testing processes. Linda attended the conference, and as mentioned above was honored with the first Elaine Manlove Award for Distinguished Service (press release attached.)

Election Directors' Meeting

We held an Election Director's meeting on July 20 and August 17. We updated the local boards on various projects, including the new electronic pollbook project and election preparation tasks. A summary of the July meeting was included with the *County Bulletin* distributed on August 7, and a summary of August 17 meeting will be provided with an upcoming *County Bulletin*.

Election Reform & Management

U.S. Election Assistance Commission's (EAC) 2022 Election Administration and Voting Report

After each general election, the election officials around the country provide the EAC with data on a variety of topics, ranging from voter registration to voter turnout by voting method to number of voting locations and pollworkers to the voting equipment used. After reviewing and verifying the data, the EAC issues a comprehensive report on the data. The [Election Administration and Voting Survey 2022 Comprehensive Report](#) is now available on the EAC's website. The data we submitted is available on our website on the ["2022 Elections" webpage](#).

Election Judge Recruitment

We created posts to recognize National Pollworker Recruitment Day for Facebook, Instagram and Twitter. Some local boards hosted events to meet with and thank their election judges.

Election Judge Online Training

The online election judge training is in the final stages of development. We have completed reviewing the first draft of the 5 modules. The training is scheduled for completion in October.

Voter Registration

MDVOTERS

The 9.2 version release of MDVOTERS was completed on July 31, 2023. The release focuses on candidacy & campaign finance module enhancements, cosmetic changes, and report updates. The release also includes new reports to further enhance voter registration list maintenance, specifically with data received from the Administrative Office of the Courts (AOC) and MD Department of Health. Incarceration and deceased data received from the respective agencies that do not match MDVOTERS records will be further reviewed by SBE against broader search criteria.

Surrendered License Mailer

In June, SBE mailed out address verification letters to approximately 14,000 individuals who surrendered their driver's license to an out of state authority. These letters were generated from data received from MVA for individuals who surrendered their MD driver's license between 4/1/2022 and 4/1/2023. SBE is receiving, tracking, and processes responses. Returned mailings with forwarding information are being sent to the LBEs for NVRA processing. Currently, SBE has processed and completed 560 voter registration cancellations from confirmations that the individuals have moved out of state.

Electronic Registration Information Center (ERIC)

Maryland receives ERIC data on a monthly basis. On even-numbered months (February, April, etc.) we receive the In-State Updates, Cross-State, and NCOA (National Change of Address) reports for processing. Odd months we receive In-State Duplicate and Social Security Administration Death files for processing. ERIC held their most recent Board of Directors meeting on July 28, 2023, to provide important updates on ERIC activities. For more information on ERIC, please visit www.ericstates.org.

Additionally, the ERIC Voter Participation Project (VPP) has commenced and SBE is currently working through the reports received. This project identifies voters who may have attempted to vote more than one time or who may be deceased. This program supplements the existing processes used by SBE. The project is set to be completed by December 31, 2023.

MDVOTERS Audits

Monthly audits of voter registration data continue to verify compliance with federal and State laws governing voter registration. The monthly audits include review of the local boards of elections' processing of ERIC reports, Department of Health's death records, AOC felony records, and the processing of overall voter registration records. Follow-up continues to be conducted with the local boards to ensure all corrections are completed and to address any training issues. General training sessions for LBE staff will commence this month and will continue periodically throughout the rest of the calendar year.

Motor Vehicle Administration (MVA) Transactions

During June, MVA collected the following voter registration transactions:

New Registration - 11,414 Residential Address Changes - 18,040
Last Name Changes - 2,179 Political Party - 3,969

During July, MVA collected the following voter registration transactions:

New Registration - 12,579 Residential Address Changes - 17,831
Last Name Changes - 2,467 Political Party - 3,998

Current Total Registered Voters

As of August 21, 2023, there were 4,161,985 active voters in Maryland. _

Candidacy and Campaign Finance (CCF) Division

Candidacy

The candidacy filings are scheduled by appointment, and as of August 24 - 33 candidates have completed the filing process at SBE.

Website Activity

In June 2023, the MD Campaign Reporting Information System (MD CRIS) website was visited by 451,153 individuals for an average of 15,038 per day. Additionally, it had 2,056,733 hits. Each viewer looked at an average of approximately 3.94 page views per day. The Business Contribution Disclosure System (BCDS) website had 853,346 hits, with 216,863 visitors with an average of nearly 3.52 page views per day.

In July 2023, the MD Campaign Reporting Information System (MD CRIS) website was visited by 498,231 individuals for an average of 16,071 per day. Additionally, it had 2,700,964 hits. Each viewer looked at an average of approximately 4.70 page views per day. The Business Contribution Disclosure System (BCDS) website had 884,301 hits, with 202,876 visitors with an average of nearly 3.97 page views per day.

Enforcement

Listed below are the recent enforcement actions from June 2023:

1. Dunn, Tamira Friends for; Cash disbursement greater than \$25, \$200
2. Holland, Edward Citizens for; Cash disbursement greater than \$25, & Failure to record contributions and expenditures, \$300
3. The Impact Fund; Failure to file 48-hour report, \$10,000
4. Fogg, Mathew Friends of; Failure to maintain account books and records, Failure to record contributions & expenditures, \$150
5. Utz, Kevin Friends Of; Failure to maintain account books and records, Failure to record contributions & expenditures, \$200
6. Broccolino, Dario Friends Of; Failure to maintain campaign records, \$500
7. Marcinko, Edward Friends of; Failure to maintain campaign records, \$500
8. Gadway, Chris for Commissioner; Failure to maintain campaign records & Cash contributions greater than \$100, \$600
9. Education Not Indoctrination Slate; Failure to maintain contribution records, \$100
10. State Professional Firefighters PAC, MD; Failure to maintain records and failure to record contributions & expenditures, \$700
11. Changemakers for District 41 Slate; Failure to record contributions, \$50
12. Blue, Michael for County Council, Citizens for; Failure to record contributions & expenditures, \$100
13. Harford County Democratic Central Committee; Failure to record contributions & expenditures, \$300

14. Sneed, Shannon For Maryland; Failure to record contributions & expenditures; Disbursement by unauthorized method, \$1,200
15. Dental Association PAC, Maryland State; Failure to record contributions & expenditures; Disbursement by unauthorized method, \$1,200
16. Anne Arundel County Democratic Central Committee; Failure to record contributions & expenditures; Failure to maintain campaign records, \$1,700
17. Wu, Chao Friends of; Failure to record contributions and expenditures, \$300
18. Charles County Democratic Central Committee; Failure to report all contributions/expenditures; Failure to maintain bank records, \$1,500
19. Kontra, Craig for Sheriff, Friends of; Failure to report contributions & expenditures, Cash contributions in excess of \$100, & Lump sum reporting \$1,150
20. Hull, LeOtha N. for Bd of Education; No bank account, \$50
21. Werner, Joe For Maryland; No bank account, \$50
22. Henderson, Tonya Friends of; No bank account, \$50
23. Moyer, Jay Friends to Elect; No bank account, \$100

Listed below are the recent enforcement actions from July 2023

1. Massett, Sabrina for Senate; Cash Disbursement greater than \$25, \$50
2. Connolly, Jerome (Fred) Friends of; Cash Disbursement greater than \$25, \$200
3. Harrison, Andrea Friends Of; Cash Disbursement greater than \$25, \$200
4. Marylanders for Freedom and Opportunity in 2022; Failure to file 48 Hour Report, \$4,600
5. Merrill, J.D. (John David) Friends of; Failure to maintain account books and records, Failure to Record Contributions & Expenditures, \$900
6. St. Mary's County Democratic Central Committee; Failure to maintain account books and records, Failure to Record Contributions & Expenditures, \$650
7. Mosby, Marilyn Friends of; Failure to maintain records, \$500
8. Jealous Turnbull Slate; Failure to maintain account records, \$250

New Pollbook Solution

The new pollbook solution is currently in a “no-go” state for use in the 2024 election due to the vendor’s failure to deliver a minimum viable product (MVP) suitable for use in a Maryland election as of the most recent software release on July 14, 2023. A final release is scheduled for no later than August 25, 2023, followed by a two-week testing period, after which a final go/no-go decision for using the new pollbook solution in the 2024 election will be made by SBE based on recommendations of all stakeholders, including the test and evaluation teams and the LBE subcommittee. The contingency plan, should there be

a no-go decision, is to use the existing pollbooks for the 2024 election which will require approval by the Board of Public Works for a contract extension to the current pollbook vendor contract beyond its December 1, 2023 end date through December 2024.

Project Management Office (PMO)

Central Warehouse

The warehouse team continued its work, providing support for the Pollbook Project team and the testing and other work efforts for the new pollbook equipment being performed by the vendor and members of the pollbook team at the Central Warehouse.

SBE continued to work with the Department of General Services Real Estate Division and the landlord for the Central Warehouse on the pre-negotiation phase tasks for an expected new lease scheduled to start on February 1, 2025.

Equipment and Supply Inventory

Mr. Ross attended the annual Property Officer training session presented by the Department of General Services Inventory Standards and Support Services Division.

SBE is in the process of reconciling much of the inventory audit work prior to the submission of the annual inventory report to the Department of General Services in September.

Records Inventory

Mr. Ross is now the Records Officer for the agency responsible for records inventory management.

SBE brought onboard a contract Project Manager who will have primary responsibilities for the planning, procurement, and implementation of a Document Management System Solution for SBE. The estimated timeframe for the first phase of this project is the beginning of FY2025.

Other

Mr. Ross led, facilitated, and participated in numerous personnel transition related discussions. This included reviewing and providing feedback on transition plans.

Exercise of Delegated Duties

We will use this section of the Administrator's Report to report when we have exercised duties assigned to the State Board of Elections but delegated to the Administrator and staff.

Since the last Administrator's Report:

No delegated duties were exercised.

The following delegated duties were exercised.

Pursuant to Election Law Article 15-103(f) the Director of Candidacy and Campaign Finance determined the balance of the Fair Campaign Financing Fund to provide a full contribution for 2 gubernatorial tickets in the Primary and 1 gubernatorial ticket in the General. It was determined that the fund balance was insufficient. As required once it is determined that the fund was insufficient, the Director provided notice to the Governor of the amount needed to fully fund the program.

NASED Presents the Elaine Manlove Award for Distinguished Service to Linda Lamone, Administrator of the Maryland State Board of Elections



NATIONAL ASSOCIATION of
STATE ELECTION DIRECTORS

**For Immediate Release
July 31, 2023**

WASHINGTON, DC – The National Association of State Election Directors (NASED) is pleased to announce that Linda Lamone, Administrator of the Maryland State Board of Elections, is the recipient of the first-ever Elaine Manlove Award for Distinguished Service in recognition of Administrator Lamone’s more than 25 years of service to NASED and to the State of Maryland.

Appointed in July 1997, Ms. Lamone is the second-longest currently serving Chief Election Official in the United States. During her tenure, she has overseen 13 federal general elections, including six presidential elections, as well as the implementation of online voter registration, multiple voting system procurements, and countless other modernizations to Maryland’s election system. After joining the NASED Executive Board in 2001 as a Regional Representative, Lamone served as the Board president in 2005, and has remained involved in the organization ever since, helping the organization and its members navigate organizational growth and fundamental changes in the election administration policy environment. Earlier this year, Ms. Lamone announced her retirement, effective September 1, 2023.

NASED President Rob Rock said: “Linda is one of the greats in our field. Her contributions to election administration at the national level are too many to count. I’ve often said she belongs on the Mount Rushmore of elections, and NASED has been proud to count her among our members. There’s probably not a single state or

territory in the United States that hasn't benefitted from her knowledge and experiences, including my own state of Rhode Island. I'm thrilled that we're honoring Linda's contributions to our organization and to the entire election community."

Administrator Lamone said: "I am honored to receive this recognition. Without NASED and the endless support election officials provide each other, my career in election administration would look different. Together, we shaped election policy at the national level and shared best practices and experiences as we administered elections in our own states. Thank you to NASED, its dedicated membership, and the organization's professional staff."

The award was presented at the NASED Conference on July 25, 2023.

About the Elaine Manlove Award for Distinguished Service: The NASED Executive Board has awarded the Distinguished Service Award six times in NASED's history. It is presented to a member of the organization or the larger elections community who has made a significant contribution to NASED and its members over an extended period. In June 2023, the NASED Executive Board voted to rename the award for Elaine Manlove, Delaware's State Election Commissioner, from 2007 to 2019, who was killed in a car accident on November 2, 2020, the day before the 2020 presidential election. For more information about the Elaine Manlove Award for Distinguished Service, visit: <https://www.nased.org/manloveaward>

###

NASED Media Contact:

Amy Cohen, Executive Director
acohen@nased.org | 240-801-6029 | www.nased.org

ABOUT NASED

Founded in 1989, NASED is a nonpartisan professional association for state election directors in all 50 states, the District of Columbia, and the five US territories. In each of their states, election directors are responsible for implementing election laws and policies, maintaining the voter registration databases, working with local election officials to ensure a successful voting experience for all voters, and more. NASED facilitates the distribution of election administration best practices and information across the states and territories.

hearing on the matter on October 4, 2022. Thereafter, on October 13, 2022, the federal district court issued an order denying Mr. Johnson injunctive relief.

OAG will be filing a motion to dismiss the case outright in the coming weeks. Per local rules, counsel has filed a letter of intent to file a motion to dismiss with the federal court. OAG is awaiting a response from the Court for leave to file its motion.